

MDR Tracking Number: M5-04-1099-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 12-15-03.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the majority of the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20 days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The office visits; therapeutic activities, and joint mobilization from 12/31/02 through 6/30/03 were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

The Medical Review Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the following issues of medical necessity: the IRO agrees with the previous determination that the electrical stimulation, ultrasound, analysis of clinical data, medical conference, physical performance test, neurostimulator, myofascial release, and hot/cold packs therapy rendered from 12/31/02 through 6/30/03 were not medically necessary.

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable to dates of service through in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Decision and Order is hereby issued this 15th day of March 2004.

Regina Cleave
Medical Dispute Resolution Officer
Medical Review Division
RC/rc

NOTICE OF INDEPENDENT REVIEW DECISION

March 3, 2004

MDR Tracking #: M5-04-1099-01
IRO Certificate #: IRO4326

The ____ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced case to ____ for independent review in accordance with TWCC Rule §133.308 which allows for medical dispute resolution by an IRO.

____ has performed an independent review of the rendered care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination, and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a matched peer with the treating health care professional. This case was reviewed by a health care professional licensed in chiropractic care. ____'s health care professional has signed a certification statement stating that no known conflicts of interest exist between him or her and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for a determination prior to the referral to ____ for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

Clinical History

This patient sustained an injury on ____ while working as a nurse's aide and attempting to lift a patient from a chair. After failure of conservative treatment modalities, she underwent a laminectomy at the left side of C4-5 and C6. Post operatively, she saw a chiropractor for therapy but eventually was diagnosed with cervical post laminectomy syndrome.

Requested Service(s)

Electrical stimulation, office visits, therapeutic activities, ultrasound, analysis of clinical data, medical conference, physical performance test, neurostimulator, joint mobilization, myofascial release, whirlpool, and hot/cold packs from 12/31/02 through 06/30/03

Decision

It is determined that the office visits; therapeutic activities, and joint mobilization from 12/31/02 through 06/30/03 were medically necessary to treat this patient's condition. However, the electrical stimulation, ultrasound, analysis of clinical data, medical conference, physical performance test, neurostimulator, myofascial release, and hot/cold packs from 12/31/02 through 06/30/03 were not medically necessary to treat this patient's condition.

Rationale/Basis for Decision

The use of electrical stimulation, hot/cold packs, whirlpool, myofascial release, and neurotransmitter (neurostimulator) or TENS unit was not medically necessary on 12/31/02 and 01/02/03. The Philadelphia Panel indicated that for neck pain, therapeutic exercises were the only intervention with clinically important benefit. There was good agreement with this recommendation from practitioners (93%). For several interventions and indications (e.g., thermotherapy, therapeutic ultrasound, massage, electrical stimulation), there was a lack of evidence regarding efficacy. With respect to the use of TENS, the panel noted that there was good evidence that TENS did not show evidence of effect on pain and the Quebec Task Force noted that there was no evidence for the effectiveness of TENS with neck pain and the Philadelphia Panel was in agreement with their guidelines, which do not recommend TENS for neck pain. (*"Philadelphia Panel Evidence-Based Guidelines on Selected Rehabilitation Interventions for Neck Pain". Physical Therapy. 2001; 81:1701-1717*)

Van der Windt et al conducted a review to evaluate the effectiveness of ultrasound therapy in the treatment of musculoskeletal disorders. Thirty-eight studies were included in the review, evaluating the effects of ultrasound therapy for lateral epicondylitis, shoulder pain, degenerative rheumatic disorders, ankle distortions, temporal mandibular pain or myofascial pain and a variety of other disorders. In 11 out of 13 placebo-controlled trials with validity scores of at least five out of ten points, no evidence of clinically important or statistically significant results were found. The authors concluded that, as of yet, there seems to be little evidence to support the use of ultrasound therapy in the treatment of musculoskeletal disorders. The large majority of 13 randomized placebo-controlled trials with adequate methods did not support the existence of clinically important or statistically significant differences in favor of ultrasound therapy (*Van der Windt DA, et al, "Ultrasound therapy for musculoskeletal disorders: a systematic review", Pain. 1999 June;81(3):257-71*).

The use of office visits; joint mobilization, and therapeutic activities were medically necessary.

The records also indicated that the doctors performed team conferences on 03/24/03, 04/28/03, and 06/30/03. The records did not provide any minutes regarding the 60-minute team conferences that were billed. The medical documentation provided does not support the medical necessity for the team conference and accompanying special report charges.

This patient was sent for a functional capacity evaluation (FCE) on 05/16/03 and the test performed was not medically necessary in light of the fact that the patient was two years post-surgery and had been out of active rehabilitation for almost one year and was performing home exercises. The doctor concluded that the patient needed to undergo a pain management program and epidural steroid injections. The FCE had no effect on the treatment plan offered by the chiropractor. Therefore, it is determined that the office visits; therapeutic activities, and joint mobilization from 12/31/02 through 06/30/03 were medically necessary. However, the electrical stimulation, ultrasound, analysis of clinical data, medical conference, physical performance test, neurostimulator, myofascial release, and hot/cold packs from 12/31/02 through 06/30/03 were not medically necessary.

Sincerely,